



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MAY - 4 2011

Brett G. Kappel, Esq.
Arent Fox LLP
1050 Connecticut Avenue, NW
Suite 400
Washington, D.C. 20036

RE: MUR 6270
Senator Rand Paul
Rand Paul for U.S. Senate and Eric D. Stein,
in his official capacity as treasurer
Alchemy, LLC
David Adams

Dear Mr. Kappel:

On April 15, 2010, the Federal Election Commission notified your clients listed above of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, on April 26, 2011, the Commission took the following actions:

1. Find no reason to believe that Rand Paul or Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(b) or 441a(f) in connection with alleged coordinated communications;
2. Dismiss the allegations that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11 with respect to its mailers and email communications;
3. Find no reason to believe that David Adams violated 2 U.S.C. § 441d or 11 C.F.R. § 110.11;
4. Find no reason to believe that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, violated 2 U.S.C. § 441d or 11 C.F.R. § 110.11 in connection with the specified television and radio advertisements and robo-calls;
5. Dismiss the allegation that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11 as to the specified newspaper advertisement;

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6. Find no reason to believe that Alchemy, LLC violated 2 U.S.C. § 441a(a);
7. Dismiss the allegation that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) in connection with the in-kind contribution from Alchemy, LLC; and
8. Dismiss the allegation that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, violated 2 U.S.C. § 441b(a) in connection with the open house at the offices of Owensboro Dermatology Associates, P.S.C.

Accordingly, the Commission closed its file in this matter. The Factual and Legal Analyses, which more fully explain the Commission's decisions, are enclosed for your information.

Based on the information before the Commission, it appears that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, ("Committee") may have violated the reporting provisions under 2 U.S.C. § 434(b) for failing to timely disclose the Committee's receipt of in-kind contributions from Alchemy, LLC. The Commission cautions the Committee to take steps to ensure that its conduct is in compliance with the Act and the Commission regulations.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

If you have any questions, please contact April J. Sands, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analyses

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS
MUR 6270

RESPONDENTS: Rand Paul
Rand Paul for U.S. Senate and Eric D. Stein,
in his official capacity as treasurer
David Adams

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Johnathan C. Gay. See 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

The complaint alleges several violations involving Rand Paul, a candidate in the 2010 Kentucky U.S. Senate race, and his authorized committee, Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer (the "Rand Paul Committee"), and David Adams, the Rand Paul campaign manager. The allegations fall into four categories: (1) receipt of undisclosed excessive in-kind contributions resulting from coordinated communications; (2) disclaimer violations; (3) failure to disclose rental payments; and (4) receipt of corporate contributions.

A. Alleged Coordinated Communications and Related Allegations

The complaint alleges that the Rand Paul Committee failed to disclose excessive in-kind contributions arising from coordinated communications in the form of: (1) email solicitations by Rand Paul's father, U.S. Representative Ron Paul, and his authorized committee, the Committee to Re-Elect Ron Paul, and Lori Pyeatt, in her official capacity as treasurer ("Re-Election Committee"), (2) email solicitations from the Coalition Opposed to Additional Spending and

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1 Taxes Candidates PAC ("COAST PAC"), and (3) updates of contributions received by the Rand
2 Paul Committee shown on the website www.RandPaulGraphs.com. Complaint at 2-4.¹

3 Under the Federal Election Campaign Act of 1971, as amended ("Act"), no person may
4 make a contribution, including an in-kind contribution, to a candidate and his authorized political
5 committee with respect to any election for Federal office which, in the aggregate, exceeds
6 \$2,400, and no candidate or authorized political committee may accept such a contribution.
7 2 U.S.C. §§ 441a(a)(1) and (f); *see* 2 U.S.C. § 431(8)(A)(i), 11 C.F.R. § 100.52(d)(1). The Act
8 defines in-kind contributions as, *inter alia*, expenditures by any person "in cooperation,
9 consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized
10 political committees, or their agents." 2 U.S.C. § 441a(a)(7)(B)(i). Treasurers of political
11 committees are required to disclose all contributions, including in-kind contributions. 2 U.S.C.
12 § 434(b).

13 Commission regulations set forth a three-prong test to define when a communication is
14 coordinated. A communication is coordinated with a candidate or candidate committee when:
15 (1) the communication is paid for by a person other than that candidate, authorized committee or
16 agent thereof; (2) the communication satisfies at least one of the four "content" standards
17 described in 11 C.F.R. § 109.21(c); and (3) the communication satisfies at least one of the six

¹ The complaint also alleges that the Rand Paul Committee violated 11 C.F.R. § 109.21, the Commission's regulations regarding coordinated communications. *Id.* at 3-4. Section 109.21, however, defines a coordinated communication as an in-kind contribution and is not, by itself, subject to violation. Instead, where activity satisfies the definition of a coordinated communication, and thus constitutes an in-kind contribution, the Act's disclosure requirements, contribution limits, and source prohibitions may be implicated. *See* 2 U.S.C. §§ 434(b), 441a(a), 441a(f), 441b(a).

1 “conduct” standards described in 11 C.F.R. § 109.21(d).² 11 C.F.R. § 109.21(a). As discussed
2 below, it appears that none of the communications at issue met the content prong of the
3 coordinated communications test.

4 **1. Rep. Ron Paul and the Re-Election Committee**

5 The complaint alleges that Rep. Ron Paul and the Re-Election Committee sent five
6 emails endorsing Rand Paul and soliciting contributions, which were coordinated with Rand Paul
7 and the Rand Paul Committee. See Complaint Exhibits B and C. The return address of the
8 emails is RonPaulForCongress.com and contains the disclaimer “Pol. Adv. Paid by the
9 Committee to Re-elect Ron Paul.” The Respondents deny that these communications were
10 coordinated. See Ron Paul response at 3; Rand Paul Committee response at 2-3.

11 The content prong of the coordinated communications test includes: (1) an
12 “electioneering communication” defined at 11 C.F.R. § 100.29; (2) a “public communication” as
13 defined at 11 C.F.R. § 100.26 that disseminates campaign materials prepared by a candidate;
14 (3) a “public communication” that expressly advocates the election or defeat of a clearly
15 identified federal candidate; and (4) a “public communication” that refers to a clearly identified
16 candidate, is distributed 90 days or fewer before an election and is directed to a targeted
17 audience. 11 C.F.R. § 109.21(c). None of the five emails at issue satisfy the content prong
18 because none of them are either an “electioneering communication” or a “public

² The activity in this matter occurred before the December 1, 2010 effective date of the Commission's recent revisions to the coordination regulations. See Final Rules and Explanation and Justification, Coordinated Communications, 75 Fed. Reg. 55947 (September 15, 2010).

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1 communication.” An “electioneering communication” is defined as a broadcast, cable or satellite
2 communication that refers to a clearly identified federal candidate and is distributed to the
3 relevant electorate 30 days before the primary election or 60 days before the general election.
4 2 U.S.C. § 434(f)(3); 11 C.F.R. § 100.29. Because the emails at issue did not employ any of
5 these forms of communication, they are not “electioneering communications.”

6 “Public communication” is defined as a communication by means of any broadcast,
7 cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass
8 mailing or telephone bank to the general public, or any other form of general public political
9 advertising, but excludes communications over the Internet, except for communications placed
10 for a fee on another person’s Web site. 11 C.F.R. § 100.26. Because the emails were sent via
11 the Internet, and the Commission has no information suggesting that they were placed for a fee
12 on another person’s website, they also are not “public communications.” As such, the emails do
13 not meet the content prong of the coordinated communications test. Accordingly, the
14 Commission finds no reason to believe that Rand Paul or Rand Paul for U.S. Senate and Eric D.
15 Stein, in his official capacity as treasurer, accepted excessive undisclosed in-kind contributions
16 in violation of 2 U.S.C. §§ 434(b) or 441a(f) in connection with the alleged coordinated
17 communications.³

18 Related to the same five emails, the complaint alleges that the Re-Election Committee
19 made, and the Rand Paul Committee accepted, an undisclosed in-kind contribution because the

³ The Commission notes that even if they had been coordinated, the emails appear to satisfy, with respect to Rep. Ron Paul, the safe harbor for coordinated contributions for solicitations and endorsements by one Federal candidate on behalf of another Federal candidate. See 11 C.F.R. § 109.21(g).

1 Re-Election Committee used its mailing list of potential supporters and contributors to send the
2 emails. See Complaint at 3. In response, the Rand Paul Committee states that it properly
3 reported the use of the list as in-kind contributions or as an outstanding debt. Rand Paul
4 Committee response at 3. Disclosure reports appear to confirm this statement.

5 The Rand Paul Committee's disclosure reports reflect the receipt of two in-kind
6 contributions of \$550 each for the rental of the Re-Election Committee's email list, on
7 October 1, 2009 and December 12, 2009, and an outstanding debt of \$4,600 owed for additional
8 rentals of the email list. Similarly, the Re-Election Committee's disclosure reports reflect the
9 making of two in-kind contributions of \$550 each for list rental by the Rand Paul Committee.
10 Accordingly, the Commission finds no reason to believe Rand Paul for U.S. Senate and Eric D.
11 Stein, in his official capacity as treasurer, accepted an undisclosed excessive in-kind contribution
12 in violation of 2 U.S.C. §§ 441a(f) or 434(b), in connection with the use of the email list.

13 **2. COAST PAC**

14 The complaint also alleges that the Rand Paul Committee coordinated an email
15 solicitation with Coalition Opposed to Additional Spending and Taxes Candidates PAC and
16 Mark Miller, in his official capacity as treasurer ("COAST PAC"), resulting in the making and
17 receipt of undisclosed in-kind contributions. The email, dated December 16, 2009, and headed
18 "Action Alert, 'Money Bomb Today!'" solicits contributions and encourages supporters to visit a

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1 website to view the Rand Paul Committee's receipt of contributions in real time.⁴ *See* Complaint
2 at 3 and Exhibit J. Both COAST PAC and the Rand Paul Committee deny any coordination.
3 *See* COAST PAC response at 3; Rand Paul Committee response at 4.

4 As with the emails sent by the Re-Election Committee discussed above, and for the same
5 reasons, the COAST PAC email solicitation, an Internet communication that, as far as the
6 Commission is aware, was not posted on another's website, does not meet the content prong of
7 the coordinated communications test because it was neither an "electioneering communication"
8 nor a "public communication." *See* 2 U.S.C. § 434(f)(3); 11 C.F.R. §§ 109.26 and 109.21(c)(1)-
9 (4). Therefore, the Commission finds no reason to believe that Rand Paul for U.S. Senate and
10 Eric D. Stein, in his official capacity as treasurer, accepted an undisclosed excessive in-kind
11 contribution in violation of 2 U.S.C. §§ 441a(f) or 434(b) with respect to the "Money Bomb
12 Today!" email. Further, because the email was neither an "electioneering communication" nor a
13 "public communication," the complaint's related allegation that it required, but omitted, a
14 disclaimer, has no merit. *See* 2 U.S.C. § 441d, 11 C.F.R. § 110.11, and the discussion of
15 disclaimers in Section II.B., *infra*. Therefore, the Commission finds no reason to believe that
16 Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, accepted an
17 undisclosed excessive in-kind contribution in violation of 2 U.S.C. §§ 441a(f) or 434(b) with
18 respect to the "Money Bomb Today!" email.

⁴ The "Money Bomb Today!" email contains a disclaimer, "Paid for by COAST Candidates PAC, Mark Miller[,] Treasurer." COAST PAC was formerly registered with the Commission, but its termination request was approved on April 29, 2008.

3. Citizens Organized Against Additional Spending and Taxes

The complaint also includes a letter from a different "COAST" organization, identified on the letterhead as Citizens Organized Against Additional Spending and Taxes ("Citizens Organized") that the complaint alleges was coordinated with the Rand Paul Committee. See Complaint at 3, Exhibit D and Exhibit J. This letter, dated August 3, 2009, lauds the accomplishments of Rand Paul and asks readers to urge him to run for the U.S. Senate. See *id.* The return address of the enclosed envelope is that of the Rand Paul Committee. See Exhibit J. The Rand Paul Committee denies coordinating this Citizens Organized letter. See Rand Paul Committee response at 3-4. Based on the specific denial from the Rand Paul Committee and the lack of information indicating coordination between Citizens Organized and the Rand Paul Committee, the Commission finds no reason to believe that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, accepted, an undisclosed excessive in-kind contribution in violation of 2 U.S.C. §§ 441a(f) or 434(b).

4. www.RandPaulGraphs.com

The website www.RandPaulGraphs.com tracks various statistics regarding Rand Paul's campaign, including its receipt of contributions, and provides a link for interested persons to donate to the campaign. The complaint alleges that the content of www.RandPaulGraphs.com is coordinated with the Rand Paul Committee. Complaint at 4 and Exhibit F. In response, the Rand Paul Committee states that the website is owned and operated by "a spontaneous grassroots supporter acting on his own accord." The Rand Paul Committee further states that this

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1 individual is not a staff member of the Rand Paul Committee, or a formal campaign volunteer,
2 and that the website is not affiliated with the Rand Paul campaign. Rand Paul Committee
3 response at 6. The Commission received no response from www.RandPaulGraphs.com.

4 It appears that the content displayed on the www.RandPaulGraphs.com website also fails
5 to meet the content prong of the test for coordinated communications because it is neither an
6 "electioneering communication" nor a "public communication;" the Commission has no
7 information indicating that the website's content was placed for a fee on another person's
8 website. See 11 C.F.R. §§ 109.21(c)(1)-(4) and 100.26. In addition, 11 C.F.R. § 100.94 provides
9 that volunteer internet activities by an individual or group of individuals, "acting independently
10 or in coordination with any candidate, authorized committee, or political party committee" is not
11 a contribution by that individual or group of individuals. See also Explanation and Justification,
12 71 Fed. Reg. 18589 (April 12, 2006). Accordingly, the Commission finds no reason to believe
13 that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, accepted
14 and failed to disclose an excessive in-kind contribution from www.RandPaulGraphs.com in
15 violation of 2 U.S.C. §§ 441a(f) or 434(b).

16 **B. Alleged Disclaimer Violations**

17 The complainant alleges that the Rand Paul Committee failed to include the required
18 disclaimers on communications, in violation of 2 U.S.C. § 441d and 11 C.F.R. § 110.11.⁵

⁵ The following types of communications require a "disclaimer" statement identifying the person paying for the communication: 1) Any public communication made by a political committee; 2) Electronic mail of more than 500 substantially similar communications when sent by a political committee; 3) A political committee web site available to the general public; or 4) Any public communication made by any person

1 Many of these communications were attached to the Complaint as Exhibit J. As discussed
2 below, the Commission believes these allegations either lack merit or should be dismissed.

3 **1. Rand Paul Committee**

4 **a. Mailers**

5 The complaint alleges that the Rand Paul Committee sent mailers that violated the Act
6 because there is no printed box around the disclaimers appearing on the first page of each of the
7 mailers, as required by 2 U.S.C. § 441d(c)(2) and 11 C.F.R. § 110.11(c)(2)(ii). The disclaimers
8 are otherwise complete. Based on previous MURs with similar facts, the Commission exercises
9 its prosecutorial discretion and dismisses the allegation as to the lack of printed boxes on these
10 mailers. *See* MUR 6274 (Miller) (Commission dismissed allegations that campaign materials
11 lacked “printed box” disclaimers where the leaflets included the campaign’s name and address);
12 MUR 6153 (NMDLCC) (Commission dismissed allegations that campaign mailers had defective
13 disclaimers including, *inter alia*, the lack of a printed box, where the mailer indicated it was paid
14 for by the campaign committee); MUR 6260 (Radzkowski) (Commission dismissed allegations
15 that fundraising letters lacked “printed box” disclaimers where the communications contained
16 sufficient identifying information to prevent the public from being misled as to who paid for
17 them).

that contains express advocacy, solicits a contribution or qualifies as an “electioneering communication”
under 11 C.F.R. § 100.29.

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b. Emails

The complaint also alleges that emails sent by the Rand Paul Committee, signed respectively by its political director, Andy Demers, and its campaign manager, David Adams, lacked the required disclaimers. The Rand Paul Committee's response (which is also on behalf of David Adams) states that "to the extent that any emails were sent with insufficient disclaimer language, such shortcomings were inadvertent and the campaign has since implemented precautions and retained legal counsel to ensure they will not recur." Rand Paul Committee response at 8.

The email addressed to Rand Paul supporters and volunteers requests their participation in a rally and door-to-door voter data collection effort in Louisville, Kentucky on January 30, 2010. It does not contain a "paid for" disclaimer, which would have been required if more than 500 were sent. See 11 C.F.R. § 110.11(a)(2). The email, however, is headed with a banner reading "Rand Paul U.S. Senate 2010," and at the bottom contains the statement "Copyright © 2010 Rand Paul for U.S. Senate Committee. All rights reserved," indicating that the communication was paid for by the Rand Paul Committee.

The Adams email, bannered at the top "Rand Paul, U.S. Senate 2010," and signed by Adams as campaign manager of the Rand Paul Committee, requests that supporters join a rally to counter a March 2, 2010 protest held by U.S. Senate candidate Daniel Mongiardo. At the bottom of the first page, printed in another font and apparently transposed onto the email, is the statement, "You are receiving this e-mail because you contributed are a Campaign For Liberty

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1 member” (*sic*). *See id.* The statement is followed by the mailing address and copyright of the
2 “Rand Paul for U.S. Senate Exploratory Committee,” indicating that this portion of the email
3 was copied from an earlier email. The second page of the document appears to be from the
4 Campaign for Liberty website. While it appears that the Rand Paul Committee supplied the
5 content of the email, it is not clear whether the email was sent to Campaign for Liberty members
6 by Campaign for Liberty or the Rand Paul Committee. The Commission did not locate any list
7 rental payments by the Rand Paul Committee to Campaign for Liberty, a 501(c)(4) lobbying
8 organization that is not registered with the Commission. The Rand Paul Committee did not
9 specifically address this email in its response. In its response, Campaign for Liberty states only
10 that “[i]nsofar as this allegation involves a missing disclaimer, that is a matter to be addressed by
11 Rand Paul for U.S. Senate.” Campaign for Liberty response at 2. If the Rand Paul Committee
12 directly sent more than 500 of these emails, it should have included a “paid for” disclaimer.
13 *See* 11 C.F.R. § 110.11(a)(1). In similar matters involving incomplete or missing disclaimers,
14 where there was sufficient information to identify the Committee payor, the Commission has
15 exercised its prosecutorial discretion and dismissed the disclaimer violation allegations.
16 *See* MUR 6278 (Segers) (Commission dismissed allegations that campaign flyers lacked the
17 requisite disclaimer where the campaign committee’s contact information was provided);
18 MUR 6103 (Singh) (Commission dismissed the allegation that mailers did not include the
19 requisite disclaimer where some information identifying the campaign committee was included).
20 If the Campaign for Liberty sent the email, no disclaimer was required, because the organization

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1 is not a political committee, and the emails were neither "electioneering communications" nor
2 "public communications." See discussion at Section II.A.1., *supra*.

3 To the extent the Rand Paul Committee sent the emails signed by its political director and
4 by Adams, the possible violations depend on how many communications were sent.
5 The Commission does not think an investigation seeking this information is worth the use of the
6 Commission's limited resources, because the associated costs of the emails were likely
7 *de minimis*. Accordingly, based on the available information, the Commission exercises its
8 prosecutorial discretion and dismisses the allegations that Rand Paul for U.S. Senate and Eric D.
9 Stein, in his official capacity as treasurer, violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11 with
10 respect to the emails, *see Heckler v. Chaney*, 470 U.S. 821 (1985). Since David Adams, who
11 was separately notified, apparently acted on behalf of the Rand Paul Committee in sending the
12 email he signed, he does not appear to have personal liability, and the Commission finds no
13 reason to believe that David Adams violated 2 U.S.C. § 441d or 11 C.F.R. § 110.11.

14 c. **Television and Radio Advertisements and Robo-Calls**

15 The complaint also alleges that an otherwise unidentified Rand Paul television
16 advertisement lacked the required disclaimer, but included neither a copy of the ad nor a
17 transcript. Complaint at 6. According to the complaint, the ad indicates that the Rand Paul
18 Committee approved the advertisement, but does not contain a statement by the candidate
19 himself, as required by 11 C.F.R. § 110.11(c)(3). *Id.* The Commission has been unable to locate
20 a transcript or video of any advertisement with a faulty disclaimer. The Rand Paul Committee's

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1 response states that it is unaware of any disclaimer issues with any of its broadcast
2 advertisements. Rand Paul Committee response at 9. Further, all the other television ads
3 available on the Rand Paul campaign website include the proper disclaimers, and the complaint
4 provides no information to support its allegation that there was one that did not.
5 See <http://www.RandPaul2010.com>.

6 Additionally, the complaint alleges that specified radio advertisements and robo-calls,
7 included on CD-ROM as part of Exhibit J to the complaint, lacked the required disclaimer.
8 However, these ads and calls in fact contain disclaimers, as Rand Paul is heard on each saying,
9 "I'm Rand Paul, a doctor, not a career politician, and I approve this message." Accordingly, the
10 Commission finds no reason to believe that Rand Paul for U.S. Senate and Eric D. Stein, in his
11 official capacity as treasurer, violated 2 U.S.C. § 441d or 11 C.F.R. § 110.11 in connection with
12 the advertisements and calls referenced in the complaint.

13 2. Newspaper Advertisement

14 The complaint alleges that a newspaper advertisement dated December 12, 2009, "overtly
15 supporting Rand Paul over other candidates," lacks the required disclaimer. Complaint at 5.
16 The advertisement, which ran in the *Kentucky Enquirer* on December 11, 2009, states "Watch
17 our next U.S. Senator, Dr. Rand Paul, 'On The Record' program with Pat Crowley ICN6," and
18 lists several broadcast times on December 12 and 13. It contains no disclaimer. The
19 Commission has no information as to who placed this newspaper advertisement. If the television
20 station placed the advertisement, it would be exempt from the disclaimer requirements.

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1 See AO 2010-08 (Citizens United) (costs of producing and distributing films and associated
2 marketing activities are exempt from disclosure, disclaimer and reporting requirements for
3 "expenditures" and "electioneering communications" under the press exemption). The Rand
4 Paul Committee does not address the newspaper advertisement in its response. If the Rand Paul
5 Committee placed the ad as alleged by the complaint, it would have required a disclaimer.
6 2 U.S.C. § 441d; 11 C.F.R. § 110.11. The Commission does not think it is worth the use of its
7 limited resources to investigate who placed this advertisement. See *Heckler v. Chaney*, 470 U.S.
8 821 (1985). Therefore, the Commission dismisses the allegation that Rand Paul for U.S. Senate
9 and Eric D. Stein, in his official capacity as treasurer, violated 2 U.S.C. § 441d or 11 C.F.R.
10 § 110.11 as to the specified newspaper advertisement.

11 **C. Non-Disclosure of Rental Payments**

12 The complaint alleges that the Rand Paul Committee failed to disclose rent paid to
13 Alchemy, LLC for the use of campaign office space. See Complaint at 4-5. Alchemy is a
14 Kentucky limited liability company with two members, Dr. Rand Paul and his wife. Rand Paul
15 Committee response at 7. Dr. and Mrs. Paul each own a 50% share in Alchemy, LLC and treat it
16 as a partnership under the tax code. *Id.* Because of this treatment, Dr. and Mrs. Paul believed
17 that in-kind contributions from Alchemy, LLC were permissible provided they were within the
18 contribution limits. *Id.* See 11 C.F.R. § 110.1(g)(2) (a contribution by an LLC that elects to be
19 treated as a partnership by the I.R.S. shall be considered a contribution from a partnership
20 pursuant to 11 C.F.R. § 110.1(e)). Although the Rand Paul Committee did not initially disclose

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1 any in-kind contributions from Alchemy, LLC on its FEC Reports, it acknowledged the error in
2 its response and stated its intention to amend its reports so they properly reflect the contribution
3 of the office space by Alchemy. Rand Paul Committee response at 7. It subsequently amended
4 its 2009 Year-End Report to disclose an in-kind contribution by Alchemy, LLC in the amount of
5 \$332.10, and amended its 2010 April Quarterly Report to disclose an in-kind contribution by
6 Alchemy, LLC of \$371.46.⁶

7 Although the Rand Paul Committee failed to timely disclose the in-kind contributions,
8 given the relatively low dollar amount involved and the amendments filed by the Rand Paul
9 Committee, the Commission exercises its prosecutorial discretion and dismisses the allegation
10 that Rand Paul for U.S. Senate and Eric D. Stein, in his official capacity as treasurer, violated
11 2 U.S.C. § 434(b) by not disclosing Alchemy, LLC's in-kind contribution, and cautions the Rand
12 Paul Committee regarding the disclosure requirements of the Act. *See Heckler v. Chaney*, 470
13 U.S. 821 (1985).

14 **D. Alleged Corporate Contributions**

15 The complaint alleges that the Rand Paul Committee and Owensboro Dermatology
16 Associates, P.S.C. ("ODA"), a corporation, violated 2 U.S.C. § 441b because the Rand Paul
17 Committee failed to reimburse ODA for expenses for an open house at ODA's offices at which
18 Rand Paul was a featured guest. Section 441b prohibits corporations from making contributions
19 in connection with federal elections, and prohibits candidates and their authorized committees

⁶ Subsequent disclosure reports do not show additional in-kind contributions from Alchemy, LLC; however, they do show in-kind contributions in the form of rent from Perkins Family, LLC.

1 from accepting such contributions. According to the ODA response, Owensboro Dermatology
2 Associates is a professional services corporation with two shareholders.⁷

3 The complaint contains ODA's invitation to the event, which states "Come mingle with
4 fellow medical community members and meet the Republican Candidate for U.S. Senate Rand
5 Paul, M.D." See Complaint Exhibit J. ODA states in its response that it hold an open house in
6 its offices "for members of the Owensboro medical community" in order to give ODA staff and
7 "the local medical community" the opportunity to meet Rand Paul. ODA Response at 2-3.
8 However, the Rand Paul Committee website described the event as follows: "This Tuesday,
9 Dr. Paul will attend a Meet and Greet at Owensboro Dermatology Associates located on
10 2821 New Hartford Road in Owensboro. The event is open to the public and begins at 6:00 PM
11 and ends at 7:30 PM." See [http://www.randpaul2010.com/2009/08/rand-focusing-in-on-daviess-](http://www.randpaul2010.com/2009/08/rand-focusing-in-on-daviess-county/)
12 [county/](http://www.randpaul2010.com/2009/08/rand-focusing-in-on-daviess-county/) (last checked January 19, 2011).

13 The Commission has no information regarding the number of attendees, the costs
14 incurred by ODA to host the event, or the cost of the invitation, though it is likely, given that the
15 event was held at ODA's own offices, that the costs were relatively low. Therefore,
16 the Commission does not believe it would be an efficient use of its limited resources to
17 investigate the circumstances of this event further. Accordingly, the Commission exercises its
18 prosecutorial discretion and dismisses the allegation that Rand Paul for U.S. Senate and Eric D.

⁷ A search of the business records of the Kentucky Secretary of State confirms that Owensboro Dermatology Associates, P.S.C. is registered as a for-profit professional services corporation.

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- 1 Stein, in his official capacity as treasurer, violated 2 U.S.C. § 441b(a). *See Heckler v. Chaney*,
- 2 470 U.S. 821 (1985).

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS
MUR 6270

RESPONDENT: Alchemy, LLC

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Johnathan C. Gay. *See* 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

The complaint alleges that the Rand Paul for U.S. Senate Committee and Eric D. Stein, in his official capacity as treasurer (the "Rand Paul Committee"), failed to disclose rent paid to Alchemy, LLC for the use of campaign office space. *See* Complaint at 4-5. Alchemy is a Kentucky limited liability company with two members, Dr. Rand Paul and his wife. Rand Paul Committee response at 7. Dr. and Mrs. Paul each own a 50% share in Alchemy, LLC and treat it as a partnership under the tax code. *Id.* Because of this treatment, Dr. and Mrs. Paul believed that in-kind contributions from Alchemy, LLC were permissible provided they were within the contribution limits. *Id.* *See* 11 C.F.R. § 110.1(g)(2) (a contribution by an LLC that elects to be treated as a partnership by the I.R.S. shall be considered a contribution from a partnership pursuant to 11 C.F.R. § 110.1(e)). Although the Rand Paul Committee did not initially disclose any in-kind contributions from Alchemy, LLC on its FEC Reports, it acknowledged the error in its response and stated its intention to amend its reports so they properly reflect the contribution of the office space by Alchemy. Rand Paul Committee response at 7. It subsequently amended

1 its 2009 Year-End Report to disclose an in-kind contribution by Alchemy, LLC in the amount of
2 \$332.10, and amended its 2010 April Quarterly Report to disclose an in-kind contribution by
3 Alchemy, LLC of \$371.46.¹

4 Under the Federal Election Campaign Act of 1971, as amended ("Act"), no
5 person may make a contribution, including an in-kind contribution, to a candidate and his
6 authorized political committee with respect to any election for Federal office which, in
7 the aggregate, exceeds \$2,400, and no candidate or authorized political committee may
8 accept such a contribution. The Act defines in-kind contributions as, *inter alia*,
9 expenditures by any person "in cooperation, consultation, or concert, with, or at the
10 request or suggestion of, a candidate, his authorized political committees, or their
11 agents." 2 U.S.C. § 441a(a)(7)(B)(i). Treasurers of political committees are required to
12 disclose all contributions, including in-kind contributions. 2 U.S.C. § 434(b).

13 Based on the information available, it appears that Alchemy, LLC's in-kind
14 contribution to the Rand Paul Committee is within the Act's limits. Therefore, the
15 Commission finds no reason to believe that Alchemy, LLC violated 2 U.S.C. § 441a(a).

¹ Subsequent disclosure reports do not show additional in-kind contributions from Alchemy, LLC.